



HOW TO DEAL WITH A DERIVATIVE WORK





Jeff Dieschburg

Jinjna Zhang

INSPIRATION OR PLAGIARISM?

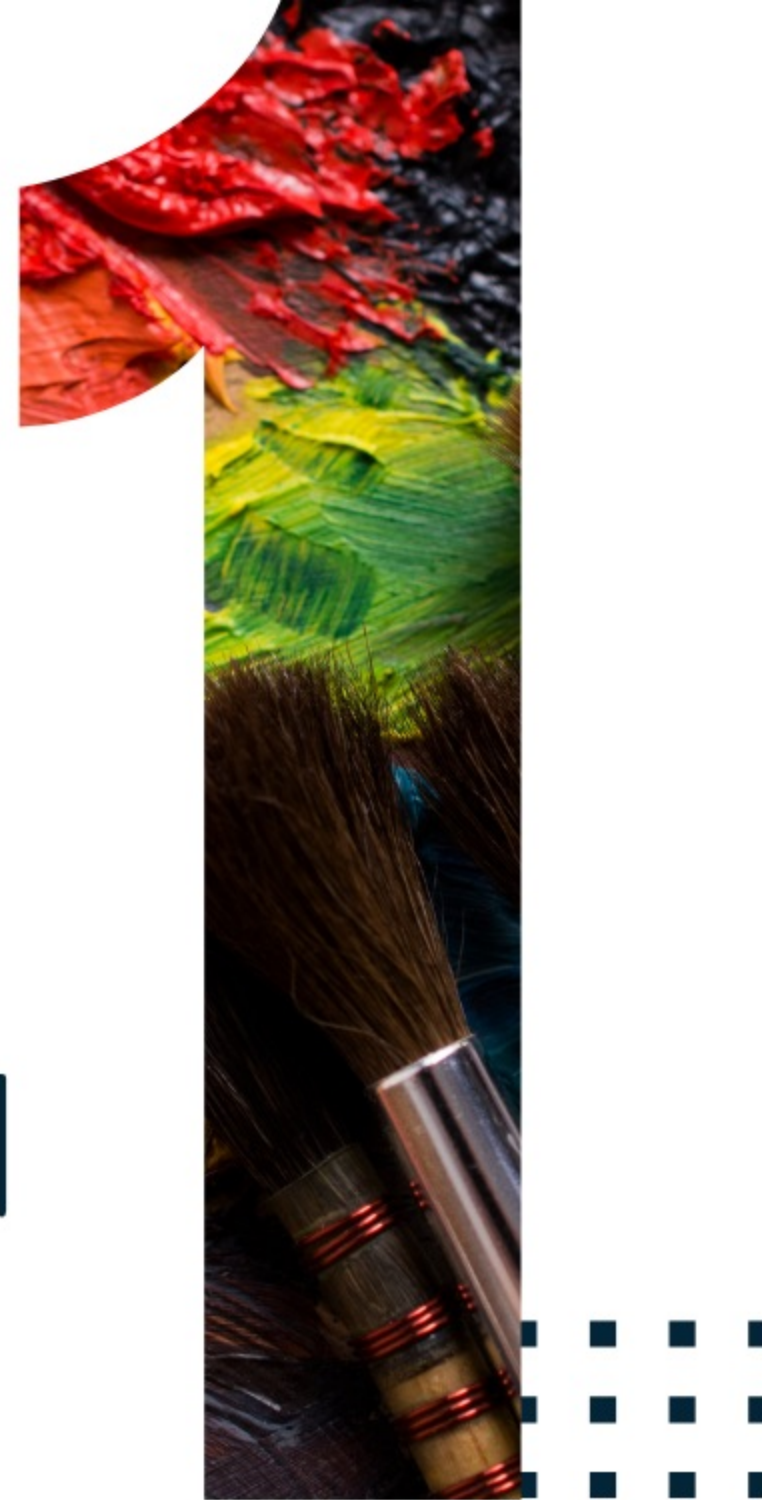
The recent case of derivative works and plagiarism involving Jinjna Zhang and Jeff Dieschburg reveals nothing new about copyright law.

**LET'S CLARIFY STEP BY STEP
WITH FEW QUESTIONS:**



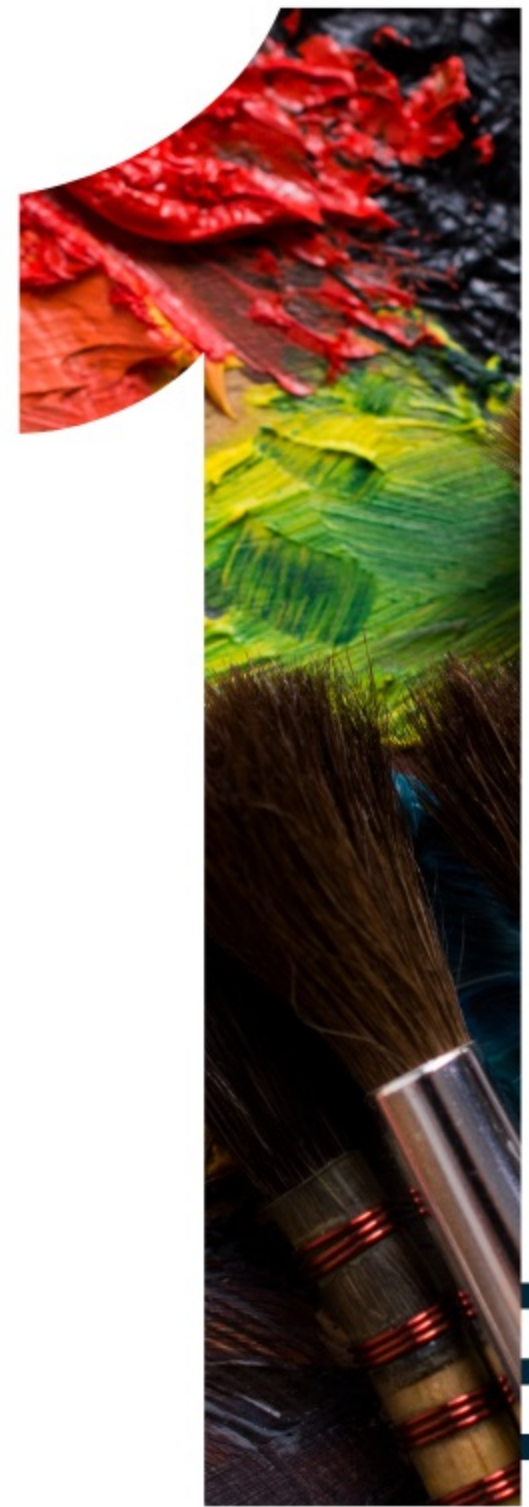


FIRST QUESTION



If I see a nice photo on the web
that inspires my painting creativity
and I want to paint that photo for
my personal enjoyment, am I
allowed to do so?





YES, You are allowed to create a derivate work. This means that you take an existing work and reproduce it with the same mean (you duplicate the photo) or with other means, such as through drawing or painting), by adding your own interpretation to the content with some modifications, but the pre-existing photo is still recognizable.

This falls under the private use copyright exception of art. 19 of the Swiss Copyright Act (CopA).



Can I participate in a competition with my painting?



SECOND QUESTION





NO, not without prior permission from the rights holder. Sharing the derivative work created by yourself with an audience wider than your relatives and closest circle of friends goes beyond what is permitted by the private use exception of art. 19 CopA.





THIRD QUESTION

Having seen the portrait photo online, instead of reproducing it, can I paint a new portrait of the person photographed?





YES, You can paint the portrait even if the person is in the same position as in the photograph. This is because you are not reproducing the photo; the content depicted is not subject to copyright protection as such.



Can I publish my painting in which I reproduce a creative set of a photoshoot?



FOURTH QUESTION





NO. If the visual appearance of the photoshoot's set is original enough to be protected by copyright, you need permission from the rights holder of the set.

